

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

WAGNER FARM PROPERTIES, LLC,

Plaintiff,

- v -

Civ. No. 1:09-CV-485
(GTS/RFT)

TRI-STATE SOLARCRETE, LLC

Defendant.

TRI-STATE SOLARCRETE, LLC,

Counterclaim Plaintiff,

- v -

WAGNER FARM PROPERTIES, LLC,

Counterclaim Defendant.

RANDOLPH F. TREECE

United States Magistrate Judge

ORDER

Recently, the Court received Wagner Farm's Letter Motion seeking to extend the discovery deadline as well as a Status Report and a Letter Brief from the other parties seeking new dates by which to complete expert discovery. *See* Dkt. Nos. 69, 70, & 71. A telephone conference, on the record, was held on November 16, 2010. Based upon the written submissions and the telephone conference, the Court grants the following relief:

The Scheduling Order, which had been previously amended, is amended once again: (1) the discovery deadline is **April 29, 2011**; (2) final day to file dispositive motion is **May 31, 2011**; (3) the trial ready date is **August 30, 2011**; (4) the trial date is **September 19, 2011**; (5) all other provisions of the Scheduling Order shall remain in effect; (5) no further extensions will be granted.

In reference to expert disclosure, Wagner Farm, CH-Four Biogas, and Keller Engineering Associates wish to respond to Tri-State Solarcrete's expert report. Therefore, Wagner Farm, CH-Four Biogas, and Keller Engineering shall serve their respective expert reports on or before

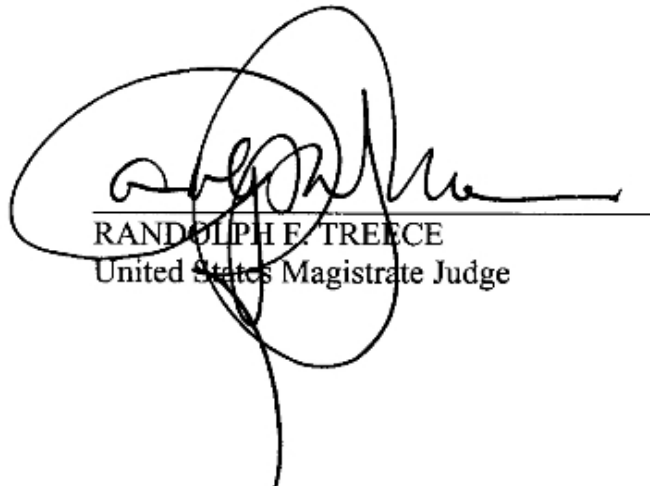
December 30, 2010. Any rebuttal report shall be served on or before **January 28, 2011.** After all reports have been exchanged, the experts may be deposed, however, those depositions shall be completed on or before **April 29, 2011.**

The Court was advised that, after informal requests were unsuccessful, Wagner Farm recently served a Rule 34 Demand upon Tri-State Solarcrete for its financial records. Wagner Farm, for expediency sake, would like the Court to, *sua sponte*, direct Tri-State Solarcrete to provide the information, even though Tri-State still has time to respond to the Demand. The Court declines this overture but grants Wagner Farm the opportunity to file a Rule 37 motion if it so desires and is warranted.

As a corollary to Wagner Farm's Demand for Tri-State Solarcrete's financial records, if Tri-State refuses to cooperate with its counsel in responding properly to a discovery demands, Tri-State's counsel may renew its motion to withdraw as counsel, without seeking further permission from the Court.

IT IS SO ORDERED.

November 17, 2010
Albany, New York



RANDOLPH E. TREECE
United States Magistrate Judge